

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

SHERRYL BYRD,)	
)	
Plaintiff,)	
)	
v.)	CIVIL ACTION NO. 2:05cv835-CSC
)	(WO)
AUBURN UNIVERSITY AT)	
MONTGOMERY,)	
)	
Defendant.)	

ORDER

Now pending before the court is the plaintiff's opposition to bill of costs (doc. # 75) filed on May 11, 2007. On May 1, 2007, the defendant filed its bill of costs in the amount of \$929.20. (Doc. # 73). The plaintiff objects to the following costs attendant to the plaintiff's deposition: attendance expense in the amount of \$100.00, exhibit tabs in the amount of \$0.80, and delivery non-local rush charge of \$20.00. The plaintiff also objects to the defendant's charge of \$23.55 for copies because the bill of costs contains no description of this charge. On May 14, 2007, the defendant filed a response to the plaintiff's objections. (Doc. # 76). In its response, the defendant asserts that the challenged deposition expenses are "standard court reporting charges," and describes the copy charges as "one copy of the . . . Defendant's Memorandum of Fact and Law in Support of its Motion for Summary Judgment Brief (Doc. # 28), Defendants Exhibits A-H submitted in support of Defendant's Motion for Summary Judgment, and Defendant's Reply to Plaintiff's Opposition to Defendant's Motion for Summary Judgment (# 50)."

The court entered summary judgment in favor of the defendant on all counts on April 17, 2007. As the prevailing party, the defendant may recover as costs the “[f]ees of the court reporter for all or any part of the stenographic transcript necessarily obtained for use in the case.” 28 U.S.C. § 1920(2). The deposition at issue was the plaintiff’s own deposition. “Depositions are included in the phrase ‘stenographic transcript.’ Costs incurred in obtaining copies of deposition transcripts are also recoverable.” *Blevins v. Heilig-Myers Corp.*, 184 F.R.D. 663, 666 (M.D. Ala. 1999). The attendance fee for the court reporter and the exhibit tabs are recoverable pursuant to 28 U.S.C. § 1920(2). Consequently, the plaintiff’s objection to the attendance fee and exhibit tabs is due to be overruled.

However, the defendant has presented no reason why it was necessary to rush delivery of the plaintiff’s deposition. Accordingly, the plaintiff’s objection to the “delivery non-local rush” fee of \$20.00 is due to be sustained.

The plaintiff also objects to the defendant’s charge of \$23.55 for copies because the defendant did not describe the copies at issue. In response to the plaintiff’s objection, the defendant identified the copies as its brief in support of its motion for summary judgment, accompanying exhibits and its reply brief. “Fees for exemplification and copies of papers necessarily obtained for use in the case” are recoverable costs. 28 U.S.C. § 1920(4). “Copies attributable to discovery, copies of pleadings, correspondence, documents tendered to the opposing party, copies of exhibits, and documents prepared for the Court’s consideration are recoverable.” *Blevins*, 184 F.R.D. at 668 *quoting Desisto College v. Town of Howey-in-the-Hills*, 718 F.Supp. 906, 913 (M.D. Fla. 1989). The defendant has taxed one

copy of its summary judgment brief, exhibits and reply brief at a requested rate of 0.15 cents per page. These documents were “necessarily obtained for use in the case.” The plaintiff’s objection to this cost is due to be overruled.

Accordingly, for the reasons as stated, and for good cause, it is

ORDERED that the plaintiff’s objections to the bill of costs be and are OVERRULED in part and SUSTAINED in part as follows:

- (a) the plaintiff be and is hereby TAXED \$885.65 for the costs incurred by the defendant in taking the plaintiff’s deposition and \$23.55 for copies of its brief in support of its motion for summary judgment, accompanying exhibits and its reply brief.
- (b) the plaintiff’s objection to the rush delivery fee of \$20.00 be and is hereby SUSTAINED.

Done this 16th day of May, 2007.

/s/Charles S. Coody
CHARLES S. COODY
CHIEF UNITED STATES MAGISTRATE JUDGE